IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 17TH DECEMBER 2007 / 26TH AGRAHAYANA 1929

Bail Appl..No. 7488 of 2007()

(CRIME NO.916 OF 2007 OF THE ADOOR POLICE STATION)

PETITIONER:

RAMESH, AGED 26 YEARS, PAYAMCHERIL,
PALLIKKAL, NOORANADU, MAVELIKKARA TALUK.

BY ADV. SRI.R.PADMAKUMAR

RESPONDENT:

STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 17/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KSS

R. BASANT, J.

B.A. No. 7488 OF 2007

Dated this the 17th day of December, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations in a crime registered for offences punishable, inter alia, under Secs.225 and 332 of the IPC. The crux of the allegations in that crime is that when the Excise party raided the house of one Bhaskaran on 29/10/07, the contraband articles were seized and the said Bhaskaran was arrested. Some miscreants secured forcible release of the said Bhaskaran from the custody of the Excise officials. Three persons are named in the F.I.R. One of them is one Sunil. The petitioner apprehends arrest as one of the accused involved in the same crime. He has not, by name, been arrayed as an accused and therefore he came to this Court seeking grant of anticipatory bail.

2. There was an interim direction that in view of the confusion regarding the identity of the person, the petitioner must make himself available before the police. The petitioner did so appear before the police in compliance with the direction. It is now reported that Sunil referred to in the F.I.R. is the petitioner himself who calls himself `Ramesh'. In short, the learned Public Prosecutor clarifies that Ramesh @ Sunil is the accused No.3 who is referred to as Sunil in the F.I.R. He is known by name Sunil. But his official name is Ramesh, submits the learned Public Prosecutor. Necessary report to clarify that the person arrayed as the 3rd accused is Sunil @ Ramesh has already been submitted to the Magistrate concerned, reports the learned Public Prosecutor.

3. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. At any rate, he had already made himself available in this case for interrogation from 10 a.m. to 3 p.m. on 12/12/07 and 13/12/2007. In these circumstances, his further arrest and detention is totally unnecessary, submits learned counsel for the petitioner.

4. The learned Public Prosecutor opposes the application. The petitioner has to be interrogated in custody. When he appeared before the Investigating Officer in compliance with

the interim direction issued by this Court, all that was done was to verify his identity. He has not been questioned in custody. A proper investigation in this case clearly demands the custodial interrogation of the petitioner herein. The petitioner may not be granted anticipatory bail, prays the learned Public Prosecutor.

5. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. This, I am satisfied, is a case in which it is not possible to perceive any features justifying the grant of anticipatory bail. This, I agree with the learned Public Prosecutor, is a fit case where the petitioner must surrender before the Investigating Officer or the learned Magistrate having jurisdiction, co-operate with the Investigator and then seek regular bail in the ordinary course.

6. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and seeks bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

Sd/-

Nan/ **(R. BASANT, JUDGE)**

//true copy// **P.S. to Judge**